

§ 18.111

50 CFR Ch. I (10–1–10 Edition)

EFFECTIVE DATE NOTE: At 73 FR 33250, June 11, 2008, Subpart I was added, effective through June 11, 2013.

§ 18.111 What specified activities does this subpart cover?

Regulations in this subpart apply to the nonlethal incidental, but not intentional, take of small numbers of Pacific walrus and polar bears by you (U.S. citizens as defined in § 18.27(c)) while engaged in oil and gas exploration activities in the Chukchi Sea and adjacent western coast of Alaska.

§ 18.112 In what specified geographic region does this subpart apply?

This subpart applies to the specified geographic region defined as the continental shelf of the Arctic Ocean adjacent to western Alaska. This area in-

cludes the waters (State of Alaska and Outer Continental Shelf waters) and seabed of the Chukchi Sea, which encompasses all waters north and west of Point Hope (68°20'20" N, -166°50'40" W, BGN 1947) to the U.S.-Russia Convention Line of 1867, west of a north-south line through Point Barrow (71°23'29" N, -156° 28'30" W, BGN 1944), and up to 200 miles north of Point Barrow. The region also includes the terrestrial coastal land 25 miles inland between the western boundary of the south National Petroleum Reserve-Alaska (NPR-A) near Icy Cape (70°20'00" N, -148°12'00" W) and the north-south line from Point Barrow. This terrestrial region encompasses a portion of the Northwest and South Planning Areas of the NPR-A. Figure 1 shows the area where this subpart applies.

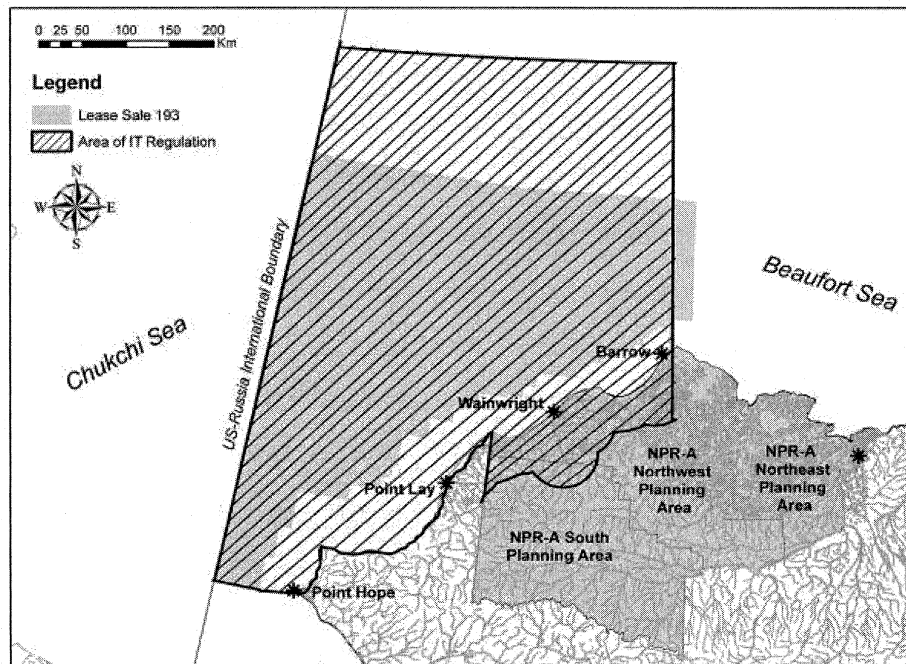


Figure 1: The geographic area of the Chukchi Sea and onshore coastal areas covered by the incidental take regulations.

§ 18.113 When is this subpart effective?

Regulations in this subpart are effective from June 11, 2008 through June 11,

2013 for year-round oil and gas exploration activities.

§ 18.114 How do I obtain a Letter of Authorization?

(a) You must be a U.S. citizen as defined in § 18.27(c).

(b) If you are conducting an oil and gas exploration activity in the specified geographic region described in § 18.112 that may cause the taking of Pacific walruses (walruses) or polar bears and you want nonlethal incidental take authorization under this rule, you must apply for a Letter of Authorization for each exploration activity. You must submit the application for authorization to our Alaska Regional Director (see 50 CFR 2.2 for address) at least 90 days prior to the start of the proposed activity.

(c) Your application for a Letter of Authorization must include the following information:

(1) A description of the activity, the dates and duration of the activity, the specific location, and the estimated area affected by that activity, *i.e.*, a plan of operation.

(2) A site-specific plan to monitor and mitigate the effects of the proposed activity on walruses and polar bears encountered during the ongoing activities, *i.e.*, a marine mammal monitoring and mitigation plan. Your monitoring program must document the effects on these marine mammals and estimate the actual level and type of take. The monitoring requirements will vary depending on the activity, the location, and the time of year.

(3) A site-specific polar bear awareness and interaction plan, *i.e.*, a polar bear interaction plan.

(4) A record of community consultation. Applicants must consult with potentially affected subsistence communities along the Chukchi Sea coast (Point Hope, Point Lay, Wainwright, and Barrow) and appropriate subsistence user organizations (the Eskimo Walrus Commission and the Alaska Nanuq (polar bear) Commission) to discuss the location, timing, and methods of proposed operations and support activities and identify any potential conflicts with subsistence walrus and polar bear hunting activities in the communities. Applications for Letters

of Authorization must include documentation of all consultations with potentially affected user groups. Documentation must include a summary of any concerns identified by community members and hunter organizations, and the applicant's responses to identified concerns. Mitigation measures are described in § 18.118.

§ 18.115 What criteria does the Service use to evaluate Letter of Authorization requests?

(a) We will evaluate each request for a Letter of Authorization based on the specific activity and the specific geographic location. We will determine whether the level of activity identified in the request exceeds that analyzed by us in considering the number of animals likely to be taken and evaluating whether there will be a negligible impact on the species or adverse impact on the availability of the species for subsistence uses. If the level of activity is greater, we will reevaluate our findings to determine if those findings continue to be appropriate based on the greater level of activity that you have requested. Depending on the results of the evaluation, we may grant the authorization, add further conditions, or deny the authorization.

(b) In accordance with § 18.27(f)(5), we will make decisions concerning withdrawals of Letters of Authorization, either on an individual or class basis, only after notice and opportunity for public comment.

(c) The requirement for notice and public comment in paragraph (b) of this section will not apply if we determine that an emergency exists that poses a significant risk to the well-being of species or stocks of walruses or polar bears.

§ 18.116 What does a Letter of Authorization allow?

(a) Your Letter of Authorization may allow the nonlethal incidental, but not intentional, take of walruses and polar bears when you are carrying out one or more of the following activities:

(1) Conducting geological and geophysical surveys and associated activities;

(2) Drilling exploratory wells and associated activities; or